

AMENDED IN ASSEMBLY MAY 19, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 603**

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### Introduced by Assembly Member Price

February 25, 2009

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An act to add and repeal Sections 1940.97 and 2924.9 of the Civil Code, relating to mortgages.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 603, as amended, Price. Mortgages and deeds of trust: foreclosure: tenants in possession of property.

Existing law governs foreclosure proceedings, including requiring specified notice to residents of property subject to a foreclosure sale. Existing law also governs residential tenancies.

This bill would prohibit, until January 1, 2013, an owner of a qualified rental unit, as defined to mean real property that is rented or leased for residential purposes, whose owner acquired the property as a result of a default on a mortgage, as specified, from taking action to terminate any tenancy within one year of acquiring ownership, as specified, except under certain circumstances, including the failure of a tenant to pay rent or a violation of a condition of the tenancy, as described. The bill would also provide that a landlord who violates this provision would be liable to the tenant in a civil action for actual damages and a fine not to exceed \$100 for each day the landlord remains in violation of this provision, but not less than \$250 for each separate cause of action. The bill would authorize a court to award reasonable attorney's fees to the prevailing party, and would authorize a tenant to seek injunctive relief, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1940.97 is added to the Civil Code, to  
2     read:  
3     1940.97. (a) An owner of a qualified rental unit shall not take  
4     action to terminate any tenancy within one year of acquiring  
5     ownership, including, but not limited to, making a demand for  
6     possession of a rental unit, threatening to terminate a tenancy,  
7     serving a notice to quit or other eviction notice, or bringing an  
8     action to recover possession or to be granted recovery of possession  
9     of a qualified rental unit, unless one of the following applies:  
10    (1) The tenant has not paid the rent due. The rent does not  
11    become due within the meaning of this paragraph until the owner  
12    has served the tenant a written notice informing the tenant of the  
13    location where, and the manner in which, the tenant shall pay the  
14    rent. The owner may not retroactively demand or collect rent for  
15    rental periods before service of this notice.  
16    (2) The tenant has violated a condition or covenant of the  
17    tenancy, other than the obligation to surrender possession upon  
18    proper notice, and has failed to cure the violation after having  
19    received written notice thereof from the owner.  
20    (3) The tenant is committing waste upon the premises, contrary  
21    to the conditions or covenants of his or her lease, is maintaining,  
22    committing, or permitting the maintenance or commission of a  
23    nuisance upon the premises, or is using the premises for an  
24    unlawful purpose.  
25    (4) The owner is a natural person who seeks in good faith to  
26    recover possession of the qualified rental unit for use and  
27    occupancy by *himself or herself, or by* his or her spouse, child,  
28    parent, or grandparent. The owner may use this ground only once  
29    for each spouse, child, parent, or grandparent.  
30    (b) The owner shall comply with the procedural and notice  
31    requirements of the law of this state, including Section 1161 of  
32    the Code of Civil Procedure, before pursuing an unlawful detainer  
33    action.

1 (c) If the prior owner was responsible for maintaining utility  
2 services, the owner of a qualified rental unit shall ensure that utility  
3 services to the units are not interrupted or terminated.

4 (d) The owner of a qualified housing unit shall comply with the  
5 notification requirements of Section 1962 of the ~~Code of Civil~~  
6 ~~Procedure~~ *Civil Code*.

7 (e) (1) A landlord who violates this section shall be liable to  
8 the tenant in a civil action for all of the following:

9 (A) Actual damages incurred by the tenant.

10 (B) An amount not to exceed one hundred dollars (\$100) for  
11 each day or part thereof the landlord remains in violation of this  
12 section. In determining the amount of the award, the court shall  
13 consider proof of matters as justice may require; however, in no  
14 event shall less than two hundred fifty dollars (\$250) be awarded  
15 for each separate cause of action. Each subsequent or repeated  
16 ~~violation, which~~ *violation that* is not committed contemporaneously  
17 with the initial violation; shall be treated as a separate cause of  
18 action and shall be subject to a separate award of damages.

19 ~~(2) In any action brought pursuant to this section, the court shall~~  
20 ~~award reasonable attorney's fees to the prevailing party.~~

21 (2) The tenant may seek appropriate injunctive relief to prevent  
22 continuing or further violation of the provisions of this section  
23 during the pendency of the action. The remedy provided by this  
24 section is not exclusive and does not preclude the tenant from  
25 pursuing any other remedy which the tenant may have under any  
26 other provision of law.

27 (f) Nothing in this section shall be construed to affect the  
28 authority of a public entity to take any other action that is  
29 authorized by law to regulate the grounds for eviction, and this  
30 section shall not, and shall not be construed to, preempt any local  
31 ordinance governing the rights of tenants. This section is not  
32 intended and it shall not be construed to be a limitation or constraint  
33 on the authority or ability of a local government, as may otherwise  
34 be provided by law, to require or provide tenant protections in  
35 addition to the requirements of this section.

36 (g) For purposes of this section, a "qualified rental unit" means  
37 real property that is rented or leased for residential purposes,  
38 including a single-family dwelling, duplex, apartment,  
39 condominium, cooperative, ~~or~~ townhouse, *community apartments*,  
40 *or residential hotels* whose owner acquired the property through

1 *foreclosure under a mortgage or a deed of trust or at a trustee's*  
2 *sale or a sale held pursuant to a judicial foreclosure proceeding,*  
3 *or through a deed in lieu of foreclosure, including a sale of property*  
4 *under the power of sale contained in any deed of trust or mortgage.*  
5 *This section shall apply to a qualified rental unit for one year after*  
6 *the trustee sale or other sale or transfer of interest described in*  
7 *this subdivision.*

8 (h) This section shall remain in effect only until January 1, 2013,  
9 and as of that date is repealed, unless a later enacted statute, that  
10 is enacted before January 1, 2013, deletes or extends that date.:-

11 SEC. 2. Section 2924.9 is added to the Civil Code, to read:

12 2924.9. (a) Notwithstanding any other provision of law, if  
13 residential real property that is rented or leased for residential  
14 purposes is acquired pursuant to a trustee's sale or a sale of  
15 foreclosure, Section 1940.97 shall apply.

16 (b) This section shall remain in effect only until January 1, 2013,  
17 and as of that date is repealed, unless a later enacted statute, that  
18 is enacted before January 1, 2013, deletes or extends that date.